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9
10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 2009-119

15 **JAMES CHRISTOPHER HUGHES**

1823 South Alvarado Street

16 Oceanside, California 92054

A C C U S A T I O N

17 Registered Nurse License No. RN 668615

18 Respondent.

19
20 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the
23 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
24 Affairs.

25 **License History**

26 2. On or about November 2, 2005, the Board issued Registered Nurse
27 License Number RN 668615 to James Christopher Hughes ("Respondent"). The license expired
28 on December 31, 2006, and has not been renewed.

STATUTORY PROVISIONS

3. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

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1 8. Health and Safety Code Section 11173, subdivision (a), provides that no
2 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
3 the administration of or prescription for controlled substances, (1) by fraud, deceit,
4 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

5 **COST RECOVERY**

6 9. Code section 125.3 provides, in pertinent part, that the Board may request
7 the administrative law judge to direct a licensee found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 10. **DRUG**

11 “Dilaudid,” a brand name for Hydromorphone, is a Schedule II controlled
12 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

13 “Fentanyl” is a Schedule II controlled substance as designated by Health and
14 Safety Code section 11055, subdivision (c)(8).

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Obtained and Self-Administered a Controlled Substance)**

17 11. Respondent is subject to disciplinary action under Code section 2761,
18 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
19 subdivision (a), in that while licensed and employed as a registered nurse at Paradise Valley
20 Hospital in National City, California, Respondent committed the following acts:

21 a. Between January 17, 2006 and April 29, 2006, Respondent obtained an
22 unknown quantity of Fentanyl and Dilaudid, controlled substances, by fraud, deceit,
23 misrepresentation or subterfuge, or by a concealment of material fact, by obtaining the drugs
24 from hospital supplies for his own personal use, in violation of Health and Safety Code section
25 11173, subdivision (a)

26 b. Respondent self-administered an unknown quantity of Fentanyl and
27 Dilaudid, controlled substances, without lawful direction.

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1 c. Respondent prescribed, administered, and furnished Dilaudid, a controlled
2 substance, when there were no physician orders therefor, as set forth below in Patient Records
3 Nos. 5, 14, 18, 22, 30, 47, 56, 60, 64, 75, 79, 80, 83, 85, 99, and 107, without lawful direction.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Incorrect and/or Inconsistent Entries in Hospital and/or Patient Records)**

6 12. Respondent is subject to disciplinary action under Code section 2761,
7 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
8 subdivision (e), in that between January 17, 2006 and April 29, 2006, while employed by
9 Paradise Valley Hospital in National City, California, Respondent made grossly incorrect or
10 grossly inconsistent entries in hospital and/or patient records. Respondent withdrew Dilaudid,
11 Fentanyl and/or Morphine, all controlled substances, from the hospital's Omnicell¹ machine,
12 without a physician's order therefor, and/or failed to chart the administration of the drugs in the
13 patient's Emergency Service Nurses' Notes, or otherwise account for the wastage or disposition
14 of the drugs, as more particularly set forth below:

15 **Patient 5**

16 a. On January 17, 2006, at 1157 hours, Respondent withdrew one 2 mg/1 ml.
17 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor. At
18 1120, Respondent charts the administration of 2 mg. of Dilaudid in the Emergency Service
19 Nurse's Notes of this patient. At 1258 hours, Respondent noted the wastage of 1 mg. of
20 Dilaudid. At 1540 hours, almost three hours later, Respondent again charted the administration
21 of 1 mg. of Dilaudid in the Emergency Service Nurses' Notes for this patient.

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26 1. **Omnicell** is a trade name for the automated single-unit dose medication dispensing
27 system that records information, including the patient name, physician orders, date and time the
28 medication was withdrawn, and the name of the individual who withdrew the drug.

1 **Patient 14**

2 b. On January 30, 2006, at 0806 hours, Respondent withdrew one
3 100 mcg/2 ml. vial of Fentanyl from the Omnicell for this patient. At 0816 hours, Respondent
4 charted the administration of .50 mcg. of Fentanyl in the Emergency Service Nurses' Notes.
5 However, Respondent failed to note the wastage or otherwise account for the disposition of the
6 remaining .50 mcg. of Fentanyl in any patient or hospital record.

7 c. On January 30, 2006, at 1003 hours, Respondent withdrew one
8 100 mcg/2 ml. vial of Fentanyl from the Omnicell for this patient without a physician's order
9 therefor. At 1005 hours, Respondent charted the administration of .50 mcgs. of Fentanyl in the
10 Emergency Service Nurses' Notes for this patient. However, Respondent failed to account for
11 the wastage or otherwise account for the disposition of the remaining .50 mcgs. of Fentanyl in
12 any patient or hospital record.

13 **Patient 17**

14 d. On February 5, 2006, at 1644 hours, Respondent withdrew one 2 mg/1 ml.
15 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor.
16 Respondent failed to account for the administration or wastage or otherwise account for the
17 disposition of the 2 mgs. of Dilaudid in any patient or hospital record.

18 **Patient 18**

19 e. On February 6, 2006, at 1033 hours, Respondent withdrew one 2 mg/1 ml.
20 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor. At
21 1030 hours, Respondent charted the administration of 1 mg. of Dilaudid in the Emergency
22 Service Nurses' Notes for this patient and at 1310 hours, Respondent noted the wastage of 1 mg.
23 of Dilaudid in the Omnicell record, almost three hours later.

24 **Patient 19**

25 f. On February 14, 2006, at 1548 hours, Respondent withdrew one
26 2 mg/1 ml. syringe of Dilaudid from the Omnicell, for this patient without a physician's order
27 therefor. At 1557 hours, Respondent noted the wastage of 2 mgs. of Dilaudid in the Omnicell
28 record.

1 **Patient 20**

2 g. On February 18, 2006, at 1055 hours, Respondent withdrew one
3 2 mg/1 ml. syringe of Dilaudid, a controlled substance, from the Omnicell for this patient without
4 a physician's order therefor. At 1102 hours, Respondent noted the wastage of 2 mgs. of Dilaudid
5 in the Omnicell record.

6 **Patient 22**

7 h. On February 18, 2006, at 1523 hours, Respondent withdrew one
8 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order
9 therefor. At 1720 hours, Respondent charted the administration of 1 mg. of Dilaudid in the
10 Emergency Service Nurses' Notes for this patient. However, Respondent failed to account for
11 wastage or otherwise account for the disposition of the remaining 1 mg. of Dilaudid in any
12 patient or hospital record.

13 **Patient 30**

14 i. On February 27, at 1049 hours, Respondent withdrew one 2 mg/1 ml.
15 syringe of Dilaudid from the Omnicell for this patient. At 1054 hours, Respondent charted the
16 administration of 1 mg. of Dilaudid in the Emergency Service Nurses' Notes for this patient. At
17 1448 hours, Respondent noted the wastage of the remaining 1 mg. of Dilaudid in Omnicell
18 record, almost two hours later.

19 j. On February 27, 2006, at 1437 hours, Respondent withdrew one
20 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order
21 therefor. At 1449 hours, Respondent noted the wastage of 1.5 mgs. of Dilaudid in the Omnicell
22 record. However, Respondent failed to account for the wastage or account for the remaining .5
23 mgs. of Dilaudid in any patient or hospital record.

24 **Patient 32**

25 k. On March 4, 2006, at 1124 hours, Respondent withdrew one
26 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient, without a physician's order
27 therefor, and after this patient was discharged from the Emergency Room at 0935 hours.

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1 Furthermore, Respondent failed to chart the administration or wastage or otherwise account for
2 the disposition of the 2 mg. of Dilaudid in any patient or hospital record.

3 **Patient 35**

4 l. On March 4, 2006, at 1547 hours, Respondent withdrew one
5 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient. At 1755 hours, Respondent
6 charted the administration of 1 mg. of Dilaudid, a controlled substance, in the Emergency Service
7 Nurses' Notes for this patient. However, Respondent failed to account for the wastage or
8 disposition of the remaining 1 mg. in any patient or hospital record.

9 **Patient 38**

10 m. On March 10, 2006, at 0828 hours, Respondent withdrew one
11 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order
12 therefor, and after this patient was discharged from the Emergency Room at 0815 hours. At
13 1050 hours, Respondent noted the wastage of 2 mgs. of Dilaudid in the Omnicell record.

14 **Patient 40**

15 n. On March 10, 2006, at 1508 hours, Respondent withdrew one 2 mg/1 ml.
16 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor.
17 Respondent has failed to chart the administration or wastage or otherwise account for the
18 disposition of the 2 mg. of Dilaudid in any patient or hospital record.

19 **Patient 41**

20 o. On March 10, 2006, at 1824 hours, Respondent withdrew one 2 mg/1 ml.
21 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor. At
22 1826, Respondent noted the wastage of 1.5 mgs. of Dilaudid in the Omnicell record. However,
23 Respondent failed to account for the wastage or otherwise account for the disposition of the
24 remaining .5 mg. of Dilaudid in any patient or hospital record.

25 **Patient 47**

26 p. On March 15, 2006, at 1152 hours, Respondent withdrew one 2 mg/1 ml.
27 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor. At
28 1200 hours, Respondent charted the administration of 1 mg. in the Emergency Service Nurses'

Notes for this patient. However, Respondent failed to account for wastage or otherwise account for the disposition of the remaining 1 mg. of Dilaudid in any patient or hospital record.

Patient 56

q. On March 20, 2006, at 1523, Respondent withdrew one 2 mg/1 ml. syringe of Dilaudid each time from the Omnicell for this patient without a physician's order therefor and after this patient was discharged from the Emergency Room at 1500 hours. Respondent failed to chart the administration or wastage or otherwise account for the disposition of the 2 mgs. of Dilaudid in any patient or hospital record.

Patient 60

r. On March 23, 2006, at 0714, 0852, and 1229 hours, each time, Respondent withdrew one 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient, when there were no physician's order therefor. At 0715, 0900, and 1230 hours, each time, Respondent charted the administration of .5 mgs. of Dilaudid in the Emergency Service Nurses' Notes for this patient. At 1145 hours, Respondent noted the wastage of 1.5 mgs. of Dilaudid in the Omnicell record. However, Respondent failed to chart the administration or wastage or otherwise account for the disposition of the remaining 3 mgs. of Dilaudid in any patient or hospital record.

Patient 64

s. On March 27, 2006, at 1127 and 1314 hours, each time, Respondent withdrew one 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor. Respondent failed to chart the administration or wastage or otherwise account for the disposition of the 2 mgs. of Dilaudid in any patient or hospital record.

Patient 75

t. On April 2, 2006, at 1026 hours, Respondent withdrew one 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor. At 1137 hours, Respondent noted the wastage of 1.5 mgs. of Dilaudid in the Omnicell record. Respondent failed to chart the wastage or otherwise account for the disposition of the remaining .5 mgs. of Dilaudid in any patient or hospital record.

1 **Patient 79**

2 u. On April 5, 2006, at 1341 hours, Respondent withdrew one 2 mg/1 ml.
3 syringe of Dilaudid from the Omnicell for this patient, almost 34 minutes before the physician's
4 order was given. At 1517 hours, Respondent noted the wastage of 1.5 mgs. of Dilaudid in the
5 Omnicell record.

6 **Patient 80**

7 v. On April 5, 2006, at 1607 hours, Respondent withdrew one 2 mg/1 ml.
8 syringe of Dilaudid from the Omnicell for this patient. At 1600 hours, Respondent charted the
9 administration of .5 mgs. of Dilaudid in the Emergency Record Nurse's Notes. Furthermore,
10 Respondent failed to account for the wastage or disposition of the remaining 1.5 mgs. of
11 Dilaudid in any patient or hospital record.

12 **Patient 83**

13 w. On April 6, 2006, at 1450 hours, Respondent withdrew one 2 mg/1 ml.
14 syringe of Dilaudid from the Omnicell for this patient. At 1500 hours, Respondent charted the
15 administration of 1 mg. of Dilaudid in the Emergency Service Nurses' Notes for this patient.
16 Respondent failed to chart the wastage or otherwise account for the disposition of the remaining
17 1 mg. of Dilaudid in any patient or hospital record.

18 **Patient 85**

19 x. On April 6, 2006, at 1904 hours, Respondent withdrew one 2 mg/1 ml.
20 syringe of Dilaudid, a controlled substance, from the Omnicell for this patient, without a
21 physician's order therefor. At 1905 hours, Respondent charted the administration of 2 mgs. of
22 Dilaudid in the Emergency Service Nurses' Notes.

23 **Patient 91**

24 y. On April 16, 2006, at 1826 hours, Respondent withdrew one 2 mg/1 ml.
25 syringe of Dilaudid from the Omnicell for this patient without a physician's order therefor.
26 Respondent failed to chart the administration or wastage or otherwise account for the disposition
27 of the 2 mgs. of Dilaudid in any patient or hospital record.

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1 **Patient 92**

2 z. On April 17, 2006, at 0144 hours, Respondent withdrew one 2 mg/1 ml.
3 syringe of Dilaudid from the Omnicell for this patient. At 0140 hours, Respondent charted the
4 administration of 1 mg. of Dilaudid in the Emergency Service Nurses' Notes for this patient.
5 Respondent failed to chart the wastage or otherwise account for the disposition of the remaining
6 1 mg. of Dilaudid in any patient or hospital record.

7 **Patient 99**

8 aa. On April 20, 2006, at 1657 hours, Respondent withdrew one
9 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order
10 therefor. Respondent failed to chart the administration or wastage or otherwise account for the
11 disposition of the 2 mgs. of Dilaudid in any patient or hospital record.

12 **Patient 100**

13 bb. On April 20, 2006, at 1913 hours, Respondent withdrew one 2 mg/1 ml.
14 syringe of Dilaudid from the Omnicell for this patient. At 1913 hours, Respondent charted the
15 administration of .5 mgs. of Dilaudid in the Emergency Service Nurses' Notes for this patient.
16 Respondent failed to chart the administration or wastage or otherwise account for the disposition
17 of the remaining 1.5 mgs. of Dilaudid in any patient or hospital record.

18 **Patient 107**

19 cc. On April 25, 2006, at 2321 hours, Respondent withdrew one
20 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient without a physician's order
21 therefor. Respondent charted the administration of .5 mgs. of Dilaudid in the Emergency Service
22 Nurses' Notes for this patient. At 1312, Respondent noted the wastage of 1.5 mgs. of Dilaudid
23 in the Omnicell report.

24 **Patient 114**

25 dd. On April 29, 2006, at 2452 hours, Respondent withdrew one 2 mg/1 ml.
26 syringe of Dilaudid from the Omnicell for this patient. At 2445 hours, Respondent charted the
27 administration of .5 mgs. of Dilaudid in the Emergency Service Nurses' Notes for this patient.

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Respondent failed to chart the wastage or otherwise account for the disposition of the remaining 1.5 mgs. of Dilaudid in any patient or hospital record.

Patient 115

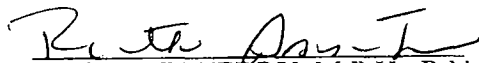
ee. On April 29, 2006, at 0454 hours, Respondent withdrew one 2 mg/1 ml. syringe of Dilaudid from the Omnicell for this patient. At 0445 hours, Respondent charted the administration of 1 mg. of Dilaudid in the Emergency Record Nurses' Notes for this patient. Respondent failed to chart the wastage or otherwise account for the disposition of the remaining 1 mg. of Dilaudid in any patient or hospital record.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 668615, issued to James Christopher Hughes;
2. Ordering James Christopher Hughes to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 11/27/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant